



OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

COPY MAILED

MAR 12 2004

OFFICE OF PETITIONS

In re Application of
Dean, Mason, Soga, Brainerd, Lemoine,
Maciver, Toptygin & Cuillerier
Application No.: 10/654,943
Filed: September 5, 2003
Attorney Docket No.: 242501US2
For: ADAPTABLE RESOURCE MODEL

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 26, 2004.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on September 5, 2003 without an executed oath or declaration. On November 25, 2003, a Notice to File Missing Parts of Nonprovisional Application (Notice) was mailed. This Notice required petitioners to file an executed declaration and a surcharge for its late filing within two months of the mail date of the Notice.

In response, on January 26, 2004, petitioners filed a petition under 37 CFR 1.47(a) and required fee and the required surcharge. The petition was accompanied by an exhibit signed by Linda Gorman, an employee of the non-signing inventor's former employer, that recounts the efforts made to locate Mr. Cuillerier. Ms. Gorman unsuccessfully attempted to reach him by telephone and mail at his last known location, Ms. Gorman spoke to Mr. Cuillerier's father, who stated he was going to give his son a message to call his former employer (no further contact was made by either Mr. Cuillerier or his father), and Ms. Gorman conducted fruitless Internet searches for Mr. Cuillerier.

A grantable petition under 37 CFR 1.47(a) requires

- (1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
- (2) a proper oath or Declaration executed by the available joint inventor(s),
- (3) the fee of \$130 as specified in 37 CFR § 1.17(h), and
- (4) the last known address of the omitted inventor(s).

This petition lacks item (2) above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. It is noted that the non-signing inventor's residence and post office address is that of his former employer. Given the fact that Mr. Cuillerier no longer works for his former employer, it is assumed that he does not receive mail at that address.

The available inventors must execute a new declaration that lists the residence and most recent home address or mailing address for Mr. Cuillerier. MPEP 605.03

An oath or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the Rule 1.47 applicants on behalf of Mr. Cuillerier is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450
ATTN: E. Shirene Willis

By hand: Crystal Plaza 1 Lobby
2011 South Clark Place
Room 1B03
Arlington, VA 22202
ATTN: E. Shirene Willis

By FAX: (703) 872-9306
ATTN: Office of Petitions -- E. Shirene Willis

Telephone inquiries should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions